

**METROPOLITAN DEVELOPMENT COMMISSION
DOCKET NUMBERS:**

Original 71-AO-3

Amending 82-AO-2

**FLOOD CONTROL DISTRICTS ZONING ORDINANCE
OF
MARION COUNTY, INDIANA**

Reprinted: November, 1982
Department of Metropolitan Development
Division of Planning and Zoning

FLOOD CONTROL DISTRICTS
ZONING ORDINANCE

AN ORDINANCE to amend Marion County Council Ordinance No. 8-1957, as amended, the Zoning Ordinance for Marion County, Indiana, and fixing a time when the same shall take effect.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA, that Marion County Council Ordinance No. 8-1957 adopted by the Marion County Council on March 28, 1957, and subsequently amended, pursuant to Chapter 283 of the Indiana Acts of 1955, and all zoning ordinances and zoning district maps adopted as amendments thereto, including the Comprehensive Zoning Maps of Marion County, Indiana, adopted by Zoning Ordinance 70-AO-4, as amended, be amended to read as follows:

ESTABLISHMENT OF FLOOD CONTROL ZONING DISTRICTS

SECTION 1.00 ESTABLISHMENT OF DISTRICTS

The following secondary FLOOD CONTROL DISTRICTS for Marion County, Indiana, are hereby established, and land within said County is hereby classified, divided and zoned into said districts as designated on the FLOOD CONTROL DISTRICTS ZONING MAPS, which maps are attached hereto, incorporated herein by reference and made a part of this ordinance:

FLOOD CONTROL ZONING DISTRICTS

ZONING DISTRICT SYMBOLS

FLOODWAY (secondary)
FLOOD PLAIN (secondary)

FW
FP

SECTION 1.01 DISTRICT BOUNDARIES, CHANGES THERETO

The boundary of any District established by this ordinance may be relocated by zoning amendment of the Flood Control Districts Zoning Maps or by the Metropolitan Development Commission of Marion County, Indiana, upon receipt of a written statement of approval of such boundary relocation and description thereof from (1) the Indianapolis Department of Public Works, Division of Flood

Control (hereinafter called the "DPW"), or (2) the Indiana Natural Resources Commission (hereinafter called "INRC").

An owner of land or applicant for an Improvement Location Permit for a building or structure in the FW or FP Districts may submit a request to the DPW or INRC for approval of relocation of District boundary upon an engineering determination that the land involved is not subject to flooding and should be excluded from such District due to: original mapping error; availability of more recent or refined hydrological data; or construction of flood control measures.

The applicant for such relocation of District boundary shall file with the Metropolitan Development Commission said written approval of DPW or INRC, as a prerequisite to boundary relocation by the Metropolitan Development Commission.

FLOOD CONTROL DISTRICT REGULATIONS

SECTION 2.00 GENERAL REGULATIONS APPLICABLE TO ALL DISTRICTS

The following regulations shall apply to all land within any FLOOD CONTROL DISTRICT:

- A. As used in this ordinance, a legally established non-conforming use means a use or structure which is not in full compliance with the regulations of this ordinance and which was lawfully established prior to October 4, 1971, the effective date of the Flood Control Districts Zoning Ordinance (Ordinance 71-AQ-3).
- B. From and after October 4, 1971:
 - 1. No land, water course, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this ordinance.
 - 2. No land, water course, building, structure, premises, use or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this ordinance.

Provided, however, legally established non-conforming uses, including levees, which are damaged by flood, fire, explosion, act of God, or the public enemy, may be restored to their original dimensions and condition, provided the damage does not reduce the value of the building or facilities, excluding the value of the land, by more than forty percent (40%) of its pre-damaged market value.

SECTION 2.01 FW FLOODWAY DISTRICT REGULATIONS (SECONDARY)

The following regulations, in addition to those in section 2.00, shall apply to all land within the FLOODWAY DISTRICT. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to said land, and in case of conflict, the more restrictive regulations shall apply.

A. PERMITTED USES The following uses shall be permitted.

1. Any OPEN LAND USE shall be permitted provided no permanent structures are erected other than pavements, curbs or fences so constructed as not to impede the flow of floodwater and debris carried by such water.
2. Necessary PUBLIC and SEMIPUBLIC FACILITIES OR UTILITY STRUCTURES if constructed in a manner not to impede the flow of floodwater and debris carried by such water.
3. DETACHED RESIDENTIAL ACCESSORY STRUCTURES may be erected under the following conditions:
 - a. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership,
 - b. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot,
 - c. The detached structure is no larger than 80% of the size of the existing primary residential structure or 720 square feet, whichever is smaller,
 - d. The detached structure is not used in total, or in part, as finished living space,
 - e. Any electrical wiring in the detached structure is located above the 100 year flood level and the detached structure is not used for the storage of any substance or chemical which is dangerous or would become dangerous if mixed with water,
 - f. The Department of Natural Resources (DNR)/Natural Resources Commission (NRC) has issued the appropriate approval for such construction, and

9. As a condition to allowing a detached residential accessory structure, the Department of Public Works (DPW) may require the owner to record a statement, in a form approved by DPW, indicating that the attached residential accessory structure shall not, in the future, be used in total, or in part, as finished living space. Such covenant shall run with the land and shall be binding on all subsequent owners.

B. PERFORMANCE STANDARDS

1. No use shall involve the storage, accumulation, spreading, dismantling or processing of garbage, trash, junk, or any other similar material.
2. Except as provided in Section 2.01, A, 3, no use shall alter the land in any manner which will:
 - a. encroach upon the carrying capacity of any watercourse,
 - b. change topography,
 - c. drain or reclaim land,
 - d. alter, widen, deepen or fill watercourses, drainage channels or ways, or
 - e. result in a pond, lake, levee, dam or any other change of watercourse, drainage channel or wayunless the DNR/NRC has issued the appropriate approval for such alteration.

C. DEVELOPMENT PROCEDURE

1. All plans, drawings, specifications and any other information pertinent to the development, location and construction of a building or structure shall be submitted to the DPW for consideration.
2. No Improvement Location Permit shall be issued for any building or structure in a Floodway District until the applicant therefor submits satisfactory evidence that the DNR/NRC has issued the appropriate approval for said construction.

SECTION 2.02 FP FLOOD PLAIN DISTRICT REGULATIONS (SECONDARY)

The following regulations, in addition to those in section 2.00, shall apply to all land within the FLOOD PLAIN DISTRICT. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to said land, and in case of conflict, the more restrictive regulations shall apply.

A. PERMITTED USES All uses permitted in the applicable primary zoning district shall be permitted in the Flood Plain District. Except as provided in subsections B, C and D below, no building or structure shall be erected, reconstructed, expanded, structurally altered, converted, used or relocated unless:

1. flood protective measures, determined to be adequate therefor and approved in writing by the DPW, are provided, or
2. the land grade upon which such building or structure is to be located, all land within ten (10) feet thereof, and adequate all-weather access to a public street, all are above the applicable flood elevation; and the first floor of such building or structure shall be at least two (2) feet above the applicable flood elevation.

B. NON-CONFORMING USES

1. Any building which constitutes a legally established non-conforming use may be altered, enlarged, or extended, on a one-time only basis, provided such alterations, enlargements, or extensions do not increase the value of the building, excluding the value of the land, by more than forty percent (40%) of its pre-improvement market value, and the alterations, enlargements, or extensions are not otherwise prohibited or restricted by law. However, nothing stated in this subsection shall prevent ordinary maintenance or repair of buildings or structures, nor shall this subsection prevent the alteration, enlargement or extension of a non-conforming use if such alteration, enlargement or extension complies with the requirements of subsection A.
2. As a condition to allowing the alteration, enlargement or extension of a non-conforming use, the Department of Public Works may require the owner to record a statement, in a form approved by DPW, indicating that the improvement is made on a one-time basis. This statement shall serve as notice to subsequent possessors and owners.

C. DETACHED ACCESSORY STRUCTURES Detached accessory structures may be erected under the following conditions:

1. The detached structure is constructed or placed on the same lot as an existing primary structure and is operated and maintained under the same ownership,

2. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot,
3. If the detached structure is accessory to a one or two family dwelling, the detached structure is no larger than 80% of the size of the existing primary structure or 720 square feet, whichever is smaller,
4. If the detached structure is not accessory to a one or two family dwelling, the detached structure is no larger than 1000 square feet.
5. The detached structure is not used in total, or in part, as finished living space, and
6. Any electrical wiring in the detached structure is located above the 100 year flood level and the detached structure is not used for the storage of any substance or chemical which is dangerous or would become dangerous if mixed with water.
7. As a condition to allowing a detached accessory structure, the DPW may require the owner to record a statement, in a form approved by DPW, indicating that the detached accessory structure shall not, in the future, be used in total, or in part, as finished living space. Such covenant shall run with the land and shall be binding on all subsequent owners.

D. ATTACHED NON-HABITABLE RESIDENTIAL STRUCTURES Attached non-habitable structures may be constructed as a part of one family dwellings, two family dwellings, or multi-family dwellings under the following conditions:

1. All parts of the building or structure other than the attached non-habitable structure shall be erected, constructed, reconstructed, expanded, structurally altered, converted, used or relocated in compliance with subsection 2.02 A,
2. The attached non-habitable structure is attached to or part of the primary residential structure and is operated and maintained under the same ownership,
3. The attached non-habitable structure is constructed at the same time as the primary residential building.
4. The attached non-habitable structure is customarily incidental, accessory and subordinate to, and commonly associated with the use of the primary residential structure,

5. The attached non-habitable structure is no larger than 720 square feet,
6. The attached non-habitable structure is not used in total or in part, as finished living space,
7. As a condition to allowing an attached non-habitable structure, the DPW may require the owner to record a statement, in a form approved by DPW, indicating that the attached non-habitable structure shall not, in the future, be used in total, or in part, as finished living space. Such covenant shall run with the land and shall be binding on all subsequent owners, and
8. Any electrical wiring and any heating and cooling equipment in the attached non-habitable structure is located above the 100 year flood level and the attached non-habitable structure is not used for the storage of any substance or chemical which is dangerous or would become dangerous if mixed with water.

E. BASEMENT FLOOR ELEVATION No basement floor construction at an elevation lower than the applicable flood elevation as indicated on the Flood Control Districts Zoning Maps shall be undertaken unless:

1. flood protection measures, determined to be adequate therefor and approved in writing by the DPW, are provided, or
2. such basement has been designed to withstand pressure from water at the flood elevation, and plans for such construction, certified by a registered professional engineer to be so designed and approved in writing by the DPW, have been filed with the Department of Metropolitan Development of Marion County, Indiana.

F. DRAINING OF LAND; ALTERING OF WATERCOURSES; CONSTRUCTION OF PONDS, LAKES, LEVEES, DAMS No draining or reclamation or land; altering, widening, deepening or filling of watercourses or drainage channels or ways; construction of ponds, lakes, levees or dams; or any other changes or improvement of watercourses or drainage channels or ways shall be undertaken in the Flood Plain District unless approved by the DPW or DNR/NRC, or other local, state or federal agency having jurisdiction.

SECTION 3.00 SEVERABILITY If any section, subsection, paragraph, subparagraph, clause, phrase, word, provision, or portion of this ordinance shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding or decision shall not affect or impair the validity of this ordinance as a whole or any part thereof, other than the section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion so held to be unconstitutional or invalid.

BE IT FURTHER ORDAINED that this ordinance shall be in full force and effect from and after this date.

CITY-COUNTY COUNCIL OF INDIANAPOLIS
AND OF MARION COUNTY, INDIANA

Beurt SerVaas

President (or Presiding Officer)

Date: August 2, 1982

Attest: Beverly S. Rippey